

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:23-cv-00546

Benito Contreras, Jr.,
Petitioner,

v.

Sheriff Larry R. Smith,
Respondent.

ORDER

Petitioner Benito Contreras, Jr., proceeding pro se and *in forma pauperis*, filed this habeas action while an inmate in the Smith County Jail. Doc. 1. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636(b). Doc. 2.


On February 12, 2024, the magistrate judge issued a report (Doc. 11) recommending that this case be dismissed without prejudice due to the petitioner's failure to comply with the court's order to file a second amended petition. Doc. 10. A copy of the report was mailed to the petitioner, who did not file written objections.

The envelope containing the report was returned to the court stamped "return to sender" and "no longer at this address." Doc. 12. The publicly available records of the Smith County Jail confirm that the petitioner was released from jail on February 9, 2024. *See* Jail Records Search Detail for Contreras, Benito, available at <https://judicial.smith-county.com/PublicAccess/JailingDetail.aspx?JailingID=386403> (last visited May 9, 2024). It is well-settled that a plaintiff has an ongoing obligation and responsibility to inform the Court of his whereabouts through a current mailing address. *See Martinez-Reyes v. United States*, 2016 WL 8740494, at *4 (S.D. Tex. Oct. 10, 2016). This requirement is memorialized in the Local Rules of the Eastern District of Texas: "A pro se litigant must provide the court with a physical address (i.e., a post office box is not

acceptable) and is responsible for keeping the clerk advised in writing of his or her current physical address.” Local Rule CV-11(d).

When no party objects to the magistrate judge’s report and recommendation, the court reviews it only for clear error. *See Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having reviewed the magistrate judge’s report, and being satisfied that it contains no clear error, the court accepts its findings and recommendation. This case is dismissed without prejudice for failure to prosecute and for failure to comply with a court order.

So ordered by the court on May 17, 2024.



J. CAMPBELL BARKER
United States District Judge